

INITIAL STATEMENT OF REASONS
RECYCLING MARKET DEVELOPMENT LOAN PROGRAM
May 2004

Title 14: Natural Resources

Division 7: California Integrated Waste Management Board

Chapter 4: Resource Conservation Programs

Article 1.1 Recycling Market Development Zone Low-Interest Revolving Loan Fund

Article 1.2 Leveraging The Recycling Market Development Zone Loan Fund

Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund

Specific Purpose and Necessity of the Regulation:

The term “Low-Interest” is being removed from the title of this article. The is to clarify that the interest rate charged to borrowers of the Recycling Market Development Zone (RMDZ) Revolving Loan Fund (Fund) will continue to be based on the Surplus Money Investment Fund (SMIF) rate, as required by statute, but will be higher than in the past, and may not be considered “low-interest.”

The SMIF rate is the interest rate paid on funds considered surplus by state agencies. It is determined by the Controller’s Office twice per year for the six-month periods ending June 30th and December 31st. The SMIF rate is typically several percentage points less than the prime rate, which is the interest rate charged by banks to their best customers.

Regulations (Title 14, Section 17934.5) gave the Board the discretion to determine an interest rate based upon the SMIF rate, but did not require that the Board set the interest rate for the Fund at the SMIF rate. It has been the practice of the Board, however, to charge the SMIF rate to borrowers of the Fund.

As of November 1, 2003, it is the Board’s intent to charge borrowers the SMIF rate plus an additional percentage in order to ensure that the Fund is truly a “revolving” loan fund. In the past, the SMIF rate has been too low to sustain the Fund in a revolving manner (i.e., to ensure that the Fund is continually replenished by interest payments on outstanding loans). As a result, in part due to the low interest rate charged, the RMDZ Subaccount will drop from \$10 million per year in the past to \$3.8 million in FY 2004-2005. This will impede the Board’s ability to assist a significant number of recycling-based businesses. It is therefore necessary to raise the interest rate on Fund loans.

Reasonable Alternatives to the Proposed Regulatory Action:

In its August 9, 2002 report entitled “Recycling Market Development Loan Leveraging Study,” the Milken Institute documented the need to “better replenish” the funds in the Loan Fund. Raising the interest rate charged by the Board is the most direct way to ensure the Loan Fund is replenished at a more rapid rate. The Study also identified a number of leveraging options, which can help increase the amount of financing available to recycled-based businesses. The Board intends to pursue a number of these options, as provided for in a new article, Article 1.2, “Leveraging The Recycling Market Development Zone Revolving Loan Fund,” which is part of this rulemaking.

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

The Board has eleven years of experience in making more than 100 loans to recycling-based businesses. In addition, the Board relied upon the Public Resources Code, the Milken Institute’s 2002 “Recycling Market Development Loan Leveraging Study,” and information provided by the California Technology, Trade and Commerce Agency in conjunction with commercial lenders and the state’s eleven Financial Development Corporations. The Board also consulted with Recycling Market Development Zone Administrators.

Determination that the Action will not have a significant adverse economic impact on business:

The Board made an initial determination that the proposed regulations will not have a significant statewide adverse impact on business, including the ability of California businesses to compete with businesses in other states.

Although businesses will pay more for Recycling Market Development Zone loans, with a higher interest rate, the Board offers terms that will still make these loans more attractive than loans from private lending institutions. For example, the Board’s interest rate on equipment would be fixed for ten years at “prime rate.” Private lenders will generally not make direct business loans for more than five to seven years, and the interest rate will be two to three percentage points more than the prime rate. Furthermore, the Agency-wide Economic Analysis Unit of the Air Resources Board (ARB) provided an independent assessment of these regulatory revisions. The ARB analysis states “the proposed regulation(s) would modify a very low cost, high benefit program by increasing the level of potential participation” (among private lenders and recycling-based manufacturers, many of which can be considered small businesses). ARB also “determined that the proposed regulation has no negative impact to the regulated community and has significant potential to provide positive impact upon local economies.”

Duplication or conflicts with code of federal regulations:

No unnecessary duplication or conflict exists between these proposed California regulations and federal regulations contained in the Code of Federal Regulations. Federal law or regulations do not contain comparable requirements.

Section 17930 Purpose of the Revolving Loan Fund

Specific Purpose and Necessity of the Regulation:

This section adds language that clarifies who may get loans and for what purpose. It specifies that loan recipients may only be private businesses and non-profit organizations within Recycling Market Development Zones, and that loans shall be used for promoting market

demand for recycled material. The change is necessary to eliminate any confusion or uncertainty about the nature of the Fund, so that small businesses don't waste time or resources exploring a program for which they may not be eligible.

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-based businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17931 Definitions

Specific Purpose and Necessity of the Regulation:

The word "which" is replaced by the word "that" in subsections (a) and (v) to reflect proper grammar. A period after et is eliminated to reflect the correct spelling of et seq. Elimination of subsection (h) is necessary to avoid duplication with new loan application requirements specified in Section 17935.1(a). The lettering of the definitions is therefore necessary to reflect the elimination of subsection (h).

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17932 Eligible Applicants

Specific Purpose and Necessity of the Regulation:

The term “eligible” is added to clarify that this subsection pertains only to “eligible” applicants. The definition of eligible applicant is changed to exclude local governments and agencies. An eligible applicant is a private business or non-profit organization located within a Recycling Market Development Zone. The purpose of the change is to provide more money to those entities that can directly create jobs and expand market demand for recyclables in recycling-related processing or manufacturing. The change was necessary to better match the needs of various business and economic development entities with available sources of funding and technical assistance.

Furthermore, the California Infrastructure and Economic Development Bank (I-Bank) has broad authority to issue tax-exempt and taxable revenue bonds, provide financing to public agencies, provide credit enhancements, acquire or lease facilities, and leverage State and Federal funds. The I-Bank's current programs include the Infrastructure State Revolving Fund (ISRF) Program and the Revenue Bond Program, which is a more appropriate source of funding for local government recycling-related infrastructure projects. The ISRF Program is a program that provides low-cost financing to public agencies for a wide variety of infrastructure and public improvements. When additional financing capital is needed, the I-Bank intends to issue revenue bonds to significantly leverage the funding for the ISRF program significantly. The I-Bank is a better source of funding for local governments because its staff is experienced at making loans to local jurisdictions. Also, much more money is available through the I-Bank than is typically available through the Recycling Market Development Revolving Loan Fund.

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

The Board's expertise is in making loans to non-governmental entities. In addition, only one jurisdiction has requested and received funding from the Recycling Market Development Zone Revolving Loan Fund over its ten-year life. This change was considered as part of an agenda item on Recycling Market Development Revolving Loan Program Project Eligibility Criteria. The Board adopted the change at its August 12, 2003 Board meeting.

(See additional explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17933 Priority Projects

Specific Purpose and Necessity of the Regulation:

This section is being revised solely to reflect proper grammar and to be more easily understood by applicants.

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17934 Loan Amounts

Specific Purpose and Necessity of the Regulation:

The maximum loan amount is described differently to make it easier for applicants to understand the Fund's lending limits. The existing regulatory language has proven to be confusing to some prospective applicants, based on the Board's lending experience over the past ten years. The statutory language is clearer. Therefore, the new regulatory language is the same as in the statute. This change will make it easier for loan applicants to find all of the loan requirements in one place when contemplating a loan application.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17934.1 Use of Funds

Specific Purpose and Necessity of the Regulation:

The description of how local governments and agencies may use loan funds has been deleted. This is because the definition of eligible applicants is being changed to exclude public agencies. An eligible applicant is a private business or non-profit organization located within a Recycling Market Development Zone. The purpose of the change is to provide more money to those entities that can directly create jobs and expand market demand for recyclables in recycling-related processing or manufacturing. The change was necessary to better match the needs of various business and economic development entities with available sources of funding and technical assistance.

Furthermore, the California Infrastructure and Economic Development Bank (I-Bank) has broad authority to issue tax-exempt and taxable revenue bonds, provide financing to public agencies, provide credit enhancements, acquire or lease facilities, and leverage State and Federal funds. The I-Bank's current programs include the Infrastructure State Revolving Fund (ISRF) Program

and the Revenue Bond Program, which is a more appropriate source of funding for local government recycling-related infrastructure projects. The ISRF Program is a program that provides low-cost financing to public agencies for a wide variety of infrastructure and public improvements. When additional financing capital is needed, the I-Bank intends to issue revenue bonds to significantly leverage the funding for the ISRF program significantly. The I-Bank is a better source of funding for local governments because its staff is experienced at making loans to local jurisdictions. Also, much more money is available through the I-Bank than is typically available through the Recycling Market Development Revolving Loan Fund.

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

The Board's expertise is in making loans to non-governmental entities. In addition, only one jurisdiction has requested and received funding from the Recycling Market Development Zone Revolving Loan Fund over its ten-year life. This change was considered as part of an agenda item on Recycling Market Development Revolving Loan Program Project Eligibility Criteria. The Board adopted the change at its August 12, 2003 Board meeting.

(See additional explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17934.3 Fees

Specific Purpose and Necessity of the Regulation:

This change eliminates any reference to a set application fee or loan closing fee. It gives the Board more flexibility to modify fees as necessary to cover the costs of processing loan applications, as allowed by Public Resources Code Section 42023.2. The change is necessary to make the language within this section internally consistent.

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17934.5 Interest Rate

Specific Purpose and Necessity of the Regulation:

The language in this section is being changed to clarify that the interest rate charged to borrowers will continue to be based on the Surplus Money Investment Fund (SMIF) rate, as required by statute, but will be higher than in the past, and may not be considered by all to be “low-interest.” The purpose of this change is to improve the sustainability of the Fund.

The SMIF rate is the interest rate paid on funds considered surplus by state agencies. It is determined by the Controller’s Office twice per year for the six-month periods ending June 30th and December 31st. The SMIF rate is typically several percentage points less than the prime rate, which is the interest rate charged by banks to their best customers.

Regulations (Title 14, Section 17934.5), interpreting Public Resources Code section 42023.4(a)(1) gave the Board the discretion to determine an interest rate based upon the SMIF rate, but did not require that the Board set the interest rate for the RMDZ Revolving Loan Fund at the SMIF rate. It has been the practice of the Board, however, to charge the SMIF rate to borrowers of the Recycling Market Development Revolving Loan Fund (Fund).

As of November 1, 2003, it is the Board’s intent to charge borrowers the SMIF rate plus an additional percentage in order to ensure that the Fund is truly a “revolving” loan fund. In the past, the SMIF rate has been too low to sustain the Fund in a revolving manner (i.e., to ensure that the Fund is continually replenished by interest payments on outstanding loans). As a result, in part due to the low interest rate charged, the RMDZ Subaccount will drop from \$10 million per year in the past to \$3.8 million in FY 2004-2005. This will impede the Board’s ability to

assist a significant number of recycling-based businesses. It is therefore necessary to raise the interest rate on Fund loans.

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17935 Application Process

Specific Purpose and Necessity of the Regulation:

This section is being changed to allow the submittal of a pre-application. The purpose of a pre-application is to provide early feedback to potential applicants in order to reduce the amount of time and effort that they spend in preparing full applications. This section is also changed to require only one copy of an application, rather than two copies. This will simplify the application process.

Some of the language in this section is also being modified to use better grammar and make it clearer to potential applicants that they cannot apply for a loan unless the applicant's project will be located in a currently designated Recycling Market Development Zone (RMDZ). The first of 40 RMDZs were originally designated in 1993 for a period of 10 years. As their 10- year designation nears expiration, these and all RMDZs must apply to the Board for redesignation. This provision will make one of the requirements clearer to potential applicants. These changes to the application process, combined, are necessary to save businesses time and money.

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17935.1 Application Content*Specific Purpose and Necessity of the Regulation:*

The application form is being taken out of the regulations, and replaced by a set of general application requirements. To our knowledge, the existing regulations, which are being amended by this rulemaking, are the only state-agency loan program regulations that reference an application form. The application form referenced in the existing regulations does not allow for a variety of loan applicants and projects. Loan applicants may be corporations, partnerships or sole proprietorships, for example. It is often necessary to request different information and legal documentation from different entities. This change will allow applicants to tailor their applications to fit their unique circumstances. Many applicants prefer to receive and provide application information and documentation electronically. It is difficult now for the Board to send applicants the form electronically. This change is necessary to make it easier for applicants to prepare and submit applications.

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17935.2 Loan Agreement

Specific Purpose and Necessity of the Regulation:

This section is changed to formally require loan recipients to submit financial documentation if requested by the Board. It has been the Board's practice in the past to request this information from loan recipients in order to monitor those business's costs, such as worker's compensation, that might jeopardize a loan recipient's ability to repay a loan. This change is necessary to ensure that the Board has access to this information, which it might not have otherwise.

The reference to the Public Resources Code is being changed to include all of the sections that pertain to loan agreements.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17935.3(b) Process For Preliminary Review

Specific Purpose and Necessity of the Regulation:

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17935.4 Process For Board Staff Review

Specific Purpose and Necessity of the Regulation:

A comma is added after “applications” to reflect proper grammar. The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17935.5 Establishment of the Loan Committee

Specific Purpose and Necessity of the Regulation:

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other

changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17935.55 Process For Loan Committee Review

Specific Purpose and Necessity of the Regulation:

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17935.6 Board Approval

Specific Purpose and Necessity of the Regulation:

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Section 17936 Auditing of Expenditure of Loan Proceeds*Specific Purpose and Necessity of the Regulation:*

The statutory reference is being changed to reflect the passage of AB 1364 (Migden) Chapter 467, Statutes of 1999. That bill re-organized and recast various statutory provisions, among other changes designed to make the loan program more attractive and available to recycling-related businesses.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.1 Recycling Market Development Zone ~~Low-Interest~~ Revolving Loan Fund above)

Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund

Specific Purpose and Necessity of the Regulation:

This is a new article. It is being added to clarify the Board's statutory authority to participate in programs that leverage the RMDZ Loan Fund (Fund), or use it to stimulate private investment in recycling-based businesses. This article is necessary to maintain the current level of financing for those businesses. The RMDZ Loan Fund will eventually dry up unless the Board acts to use the remaining funds to leverage other sources of financing. The RMDZ Subaccount is expected to drop from \$10 million per year in the past to \$3.8 million in FY 2004-2005, and to lower levels in coming years. Unless action is taken now, there will be insufficient funds remaining in the RMDZ Subaccount to assist a significant number of recycling-based businesses in the future.

Reasonable Alternatives to the Proposed Regulatory Action:

In its August 9, 2002 report entitled "Recycling Market Development Loan Leveraging Study," the Milken Institute documented the need to "better replenish" the funds in the Loan Fund. The Study identified a number of leveraging options, which can help increase the amount of financing available to recycled-based businesses. The Board intends to pursue most of these options, as provided for in subsequent Article 1.2, "Leveraging The Recycling Market Development Zone Revolving Loan Fund."

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

The Board has eleven years of experience in making more than 100 loans to recycling-based businesses. In addition, the Board relied upon the Public Resources Code, the Milken Institute's 2002 "Recycling Market Development Loan Leveraging Study," and information provided by the California Technology, Trade and Commerce Agency in conjunction with commercial lenders and the state's eleven Financial Development Corporations. The Board also consulted with Recycling Market Development Zone Administrators.

Determination that the Action will not have a significant adverse economic impact on business:

The Board made an initial determination that the proposed regulations will not have a significant statewide adverse impact on business, including the ability of California businesses to compete with businesses in other states. Furthermore, the Agency-wide Economic Analysis Unit of the Air Resources Board (ARB) provided an independent assessment of these regulatory revisions. The ARB analysis states "the proposed regulation(s) would modify a very low cost, high benefit program by increasing the level of potential participation" (among private lenders and recycling-based manufacturers, many of which can be considered small businesses). ARB also "determined that the proposed regulation has no negative impact to the regulated community and has significant potential to provide positive impact upon local economies."

Section 17939.1 Purpose of Leveraging the Revolving Loan Fund

Specific Purpose and Necessity of the Regulation:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Section 17939.2 Definition

Specific Purpose and Necessity of the Regulation:

This is a new section. It defines the term “leveraging.” It is necessary to describe what leveraging means, what it does, and how it may be implemented.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Section 17939.3 Types of Leveraging Entities and Programs

Specific Purpose and Necessity of the Regulation:

This is a new section. It references the primary financial institutions that participate in leveraging programs. It is necessary to identify with whom the Board may contract to carry out leveraging activities.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Section 17939.4 Leveraging Activities

Specific Purpose and Necessity of the Regulation:

This is a new section. It describes what the Board may do to implement leveraging programs. It is necessary to define the scope of allowable activities.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Section 17939.5 Loan Sale

Specific Purpose and Necessity of the Regulation:

This is a new section. It describes what the Board may and may not do to sell loans, and under what conditions. It is necessary to clarify the scope and nature of the Board's authorization to sell RMDZ loans.

Reasonable Alternatives to the Proposed Regulatory Action:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Reliance upon Technical, Theoretical, and/or Empirical Study, or Report:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Determination that the Action will not have a significant adverse economic impact on business:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund above)

Duplication or conflicts with code of federal regulations:

(See explanation under Article 1.2 Leveraging The Recycling Market Development Zone Revolving Loan Fund)